

**REMARKS**

By this Amendment, claims 2, 11, 37, 38, 40, and 41 are amended, and claims 7-10 are canceled. Accordingly, claims 2-6, 11-13, 37, 38, and 40-41 are pending in this application. No new matter is presented in this Amendment.

The Patent and Trademark Office (PTO) rejects claims 2, 4, 5, 7-10, and 38 under 35 U.S.C. §102(a) as anticipated over U.S. Patent No. 6,649,942 to Hata et al. ("Hata"). This rejection is respectfully traversed. Claim 11, although rejected under 35 U.S.C. §103(a), is not rejected under 35 U.S.C. §102 over Hata. Claim 11 has been rewritten in independent form and claims 2 and 38 are amended to depend from claim 11. Claims 7-10 have been canceled, rendering the rejection of these claims moot. Accordingly, withdrawal of the rejection of claims 2, 4, 5, and 38 under 35 U.S.C. §102(a) over Hata is respectfully requested.

The PTO further rejects claims 3, 6, 11, 12, 37, and 40-41 under 35 U.S.C. §103(a) over Hata. This rejection is respectfully traversed.

Claim 11 recites, *inter alia*, a GaN-based semiconductor light emitting diode comprising a metal layer formed on an alloy layer, the metal layer selected from a group consisting of Rh, Al and Ag. The PTO acknowledges that Hata fails to disclose wherein the metal layer consists of one of Rh, Al, or Ag and asserts that it would be obvious to one of ordinary skill in the art at the time the invention was made to form the device of Hata having the materials recited by the Applicants based upon its suitability for the intended use "as a matter of obvious design choice." Applicants respectfully disagree.

Hata only appears to disclose, at column 6, lines 53-55, an Au film formed on the upper surface of the p-type contact layer. Nowhere does Hata, disclose, teach or suggest wherein a metal layer made of one metal selected from the group consisting of Rh, Al and Ag is formed on the alloy layer. Indeed, nowhere does Hata disclose the use of any metal other than Au, or even a reference to a generic metal layer, formed on the alloy layer.

Therefore, as Hata fails to disclose a generic metal layer, or a layer comprising at least one other metal layer other than Au, Applicants submit that Hata does not disclose, teach or suggest any composition other than Au. Accordingly, Applicants further submit that it would not be

obvious to one of ordinary skill in the art that the modification of the prior art would have been an obvious matter of engineering design choice.

Therefore, Applicants respectfully submit that the rejection of claims 3, 6, 11, 12, 37, and 40-41 under 35 U.S.C. §103(a) over Hata is improper. Withdrawal of the rejection over Hata is respectfully requested.

All objections and rejections have been addressed. In view of the foregoing, Applicants respectfully submit that the application is in condition for allowance and favorable reconsideration and prompt allowance of claims 2-6, 11, 12, 37, 38, and 40-41 is earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account

Respectfully submitted,

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Attachment:

Petition for Extension of Time

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**Date: December 26, 2006**  
**BJH/ERM/ayw**